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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/643,046	08/21/2000	Mikhail Gutin	ISIPO18US	8104

27949 7590 03/22/2004

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EXAMINER

HINDI, NABIL Z

ART UNIT	PAPER NUMBER
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2655

DATE MAILED: 03/22/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/643,046

Applicant(s)

GUTIN, MIKHAIL

Examiner

NABIL Z HINDI

Art Unit

2655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) 1, 3, 13-16, 23, 25, 35-38 and 45 is/are rejected.
- 7) ☐ Claim(s) 3, 4-12, 17-22, 24, 26-34, 39-44 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

In response to applicant's amendment dated March 03, 2004, the following action is taken:

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 13-16, 23, 25, 35-38 and 45 are rejected under 35 U.S.C. 102(b) as being anticipated by 5638353.

The reference shows an optical disk recording and reproducing apparatus comprising: an optical disk 1, an electronically reconfigured grating 3A for splitting the emitted light beam into a zero and first order light beams, a delivery and focusing system 4 and 5, and a detector 6. regarding the limitations of claim 45, it is noted that each of the zero and first order light beams must have an intensity that is modulated (could be zero modulation) and a phase (same, different or zero phase) since the claim did not state the modulation rule, the light beam intensity value or the phase value. As shown in figs 1 and 2, the "properties" are used to detect the tracking error signal.

With respect to the limitations of claims 3 and 24. The reference shows the use of zero and first order light beams.

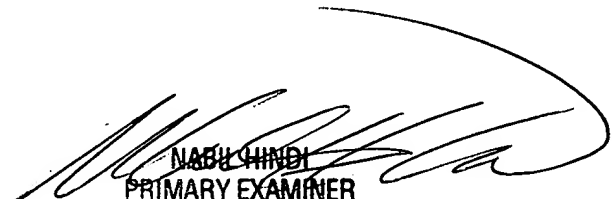
With respect to the limitations of claims 13-15 and 35-37. The reference shows the use of a transmission type (crystal) grating element in order to read tracking signal from the disk (fig 1).

With respect to the limitations of claims 16 and 38. , It is noted that each of the zero and first order light beams must have an intensity that is modulated (could be zero modulation) and a phase (same, different or zero phase) since the claim did not state the modulation rule, the light beam intensity value or the phase value. As shown in figs 1 and 2, the "properties" are used to detect the tracking error signal.

Claims 2, 4-12, 17-22, 24, 26-34 and 39-44 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

None of the cited prior art shows or teaches overlapping the zero and first order light beams on the photo detector and using the second order light beam in detecting the tracking error signal.

Any inquiry concerning this communication should be directed to NABIL Z HINDI at telephone number (703) 308-1555.


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2455